

ESTTA Tracking number: **ESTTA251668**

Filing date: **11/26/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Valanna Cosmetics, LLC
Granted to Date of previous extension	11/26/2008
Address	301 N Jackson Ave Suite 4 San Jose, CA 95133 UNITED STATES
Attorney information	Jennifer DeArmond Schneck & Schneck P.O. Box 2-E San Jose, CA 95109 UNITED STATES jdearmond@patentvalley.com Phone:408-297-9733

Applicant Information

Application No	77266464	Publication date	07/29/2008
Opposition Filing Date	11/26/2008	Opposition Period Ends	11/26/2008
Applicant	LICOPAI ENTERPRISES CO., LTD. 1F., No. 98 Ho Ping Road, A Lien Hsiang Kaohsiung Hsien, TAIWAN		

Goods/Services Affected by Opposition


Class 003. First Use: 2001/04/01 First Use In Commerce: 2001/07/30 All goods and services in the class are opposed, namely: Cosmetics; facial creams; cosmetic lotions; perfumery; lipsticks; facial cleanser; all purpose cleaning preparations; essential oils; bar soap, deodorant soap, perfumed soap, antibacterial soap; non-medicated cosmeceuticals, namely, lotions and facial preparations; eye lotions; mascara; body lotion, facial lotion, shaving lotions, sun care lotions; beauty masks, rouge, eyebrow pencil

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	The Applicant is not using the mark on or in connection with all of the goods listed in the application for International class 3.

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
Design Mark	
Goods/Services	Cosmetic skin creams

Attachments	88 Valanna trademark1.jpg Notice of Opposition 88 Valanna.pdf (4 pages)(207160 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/jennifer dearmond/
Name	Jennifer DeArmond
Date	11/26/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

Valanna Cosmetics, LLC)	
)	Opposition No.:
Opposer,)	
)	Ser. No. 77266464
vs.)	Mark: 88 VALANNA
)	
Licopai Enterprises Co., Ltd.)	
)	
Applicant.)	

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Opposer, Valanna Cosmetics, LLC, a California Limited Liability Company with a business address of 301 N. Jackson Ave. #D, San Jose, California, 95133 hereby opposes the registration of the mark 88 VALANNA (stylized or with design) which is the subject of Application Ser. No. 77/266,464 filed by Licopai Enterprises Co., Ltd.:

As grounds in support of this Opposition, Opposer alleges that:

1. Applicant has applied to register the mark 88 VALANNA (stylized or with design) for goods in International class 3, namely, "Cosmetics; facial creams; cosmetic lotions; perfumery; lipsticks; facial cleanser; all purpose cleaning preparations; essential oils; bar soap, deodorant soap, perfumed soap, antibacterial soap; non-medicated cosmeceuticals, namely, lotions and facial preparations; eye lotions; mascara; body lotion, facial lotion, shaving lotions, sun care lotions; beauty masks, rouge, eyebrow pencil". The application was filed on August 28,

2007 based on Applicant's use in commerce of the trademark pursuant to Section 1(a) of the Lanham Act. The application was published for opposition on July 29, 2008. Opposer timely filed an extension of time to oppose Ser. No. 77266464 which was granted on August 6, 2008, allowing time to oppose until November 26, 2008.

2. On October 24, 2002, Opposer filed a trademark application for the stylized mark 88 Valanna, for use on cosmetics, which trademark application matured into Registration No. 2919810.

3. Subsequently, on September 25, 2007, Applicant, Licopai Enterprises Co., Ltd. filed a Cancellation proceeding (proceeding No. 92048204) against Registration No. 2919810.

4. In the course of Cancellation No. 92048204 Opposer (Respondent in Cancellation No. 92048204) voluntarily surrendered Registration No. 2919810 for cancellation.

5. Opposer is concurrently filing a new application for the trademark 88 Valanna (stylized or with design) for use on the goods of "cosmetic skin creams" in International class 3, based on actual use in commerce.

6. Opposer has been and is now using the trademark 88 VALANNA (stylized or with design) on goods in International class 3, namely, cosmetic face creams.

7. Opposer is informed and believes and thereon alleges that it has superior rights to the mark through prior use of the mark in commerce.

First Basis of Opposition

8. Applicant's mark so resembles Opposer previously used mark as to be likely, when applied to Applicant's goods identified in International class 3, to cause confusion, mistake, or deception for purposes of Section 2(d) of the Trademark Act, thereby resulting in damage to Opposer.

Second Basis of Opposition

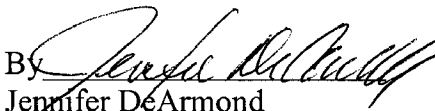
9. On Information and belief, Opposer asserts that Applicant has not used its mark in commerce on or in connection with all the goods in International class 3 listed in Application Ser. No. 77266464. Therefore, Applicant is not entitled to prosecute an application for registration of its mark alleging use on or in connection with goods that Applicant does not in fact use on or in connection with the mark, all to the damage of Opposer.

A fee in the amount of \$300 is due in connection with the Notice of Opposition, which fee will be paid electronically upon filing. Please charge any deficiency to Deposit Account No. 19-0590.

WHEREFORE, Applicant prays that registration to Applicant be refused and that the Opposition be sustained.

Dated: 11/26/2008

Respectfully Submitted,

By 
Jennifer DeArmond
Attorney for Opposer
Valanna Cosmetics, LLC

Law Office of
Schneck & Schneck
80 South Market Street, 3rd Floor
San Jose, CA 95109-0005
Telephone: 408-297-9733

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the NOTICE OF OPPOSITION was served by depositing the same with the United States Postal Service, first class mail, postage prepaid, directed to:

James M. Slattery
Reg. No. 28,380
Birch Stewart Kolasch & Birch LLP
P.O. Box 747
Falls Church, VA 22040-0747

Date: November 26, 2008

By: Merle P. Garcia
Merle P. Garcia